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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/862,939	05/22/2001	Ronald D. Hoover	15562-1	9754

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EXAMINER

GRILES, BETHANY L

ART UNIT

PAPER NUMBER

3643

DATE MAILED: 03/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/862,939

Applicant(s)

RONALD D. HOOVER

Examiner

Bethany L. Griles

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 29 January 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-3 and 5-13 is/are pending in the application.
- 4a) Of the above claim(s) 4 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3; 5-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Response to Amendment***

The applicant's arguments have been fully considered but are not persuasive. The structures as described in the applicant's claims can be seen in the Blackburn patent (US 6256925). Specifically, Blackburn discloses a bottom 38, a continuous sidewall 36, at least one channel 34 a first catch (see element 40), and a second catch 46 positioned above the bottom of the channel. This reference therefore meets the claim as written.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Blackburn (US 6,256,925).

Regarding claim 1, Blackburn discloses a container for holding fishing lures comprising a bottom 38, a continuous sidewall 37, at least one channel 46 comprised of two barriers 40, 36, a catch (see element 40) above the bottom of each channel; whereby the fishing lure is placed within the channel so that the wire is compressed and the lure is held in place.

Regarding claim 2, Blackburn discloses a partition 36 perpendicular to the bottom dividing the container into two roughly equal portions 34, between 40 and 46.

Regarding claim 3, Blackburn discloses that the channels run perpendicular to the partition 36.

Regarding claim 4, Blackburn discloses a second catch (figs 4a, b, c, and d) positioned above the bottom of the channels.

Regarding claim 5, Blackburn discloses a neck rest (see fig 3) having a curved surface (see fig 2).

Regarding claim 10, Blackburn discloses a neck rest 46, a strip 66, and a catch in the form of a C shape (fig 4B).

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 6 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blackburn.

Regarding claim 6, Blackburn discloses that the catch is above the bottom of the container fig 3.

Blackburn does not disclose that the height is .75 to 2 inches above the bottom.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to make the catch at a height which accommodated the lure to be held in place. Since it is common in the art for spinning baits to be within this size range, it would be obvious to make their holder of the same size.

Claims 7-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blackburn in view of Gillespie (US 5,079,863) in view of Garman (US 6,101,760).

Regarding claim 7, Blackburn discloses a container for holding fishing lures comprising a bottom 38, a continuous sidewall 37, at least one channel 46 comprised of two barriers 40, 36, a catch (see element 40) above the bottom of each channel; whereby the fishing lure is placed within the channel so that the wire is compressed and the lure is held in place.

Blackburn does not disclose an insert with a rectangular floor or a rail.

Gillespie discloses a plurality of inserts with rectangular floors 56 and rails 42, 44.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of Gillespie to the invention of Blackburn in order to hold multiple inserts in place and minimize jostling of the contents.

Blackburn as modified by Gillespie discloses channels (46 Blackburn) for holding the wire segments (16 Blackburn).

Blackburn as modified does not disclose a plurality of barriers forming a row of channels for holding the wires.

Garman discloses a plurality of barriers forming a row of channels 30, 34.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of Garman to the invention of Blackburn as modified by Gillespie in order to hold more than one lure in place.

Regarding claims 8 and 9, Blackburn discloses a container for holding fishing lures comprising a bottom 38, a continuous sidewall 37, at least one channel 46 comprised of two barriers 40, 36, a catch (see element 40) above the bottom of each channel; whereby the fishing lure is placed within the channel so that the wire is compressed and the lure is held in place.

Blackburn does not disclose an insert with a rectangular floor or a rail.

Gillespie discloses a plurality of inserts with rectangular floors 56 and rails 42, 44.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of Gillespie to the invention of Blackburn in order to hold multiple inserts in place and minimize jostling of the contents. Also, the applicant is merely claiming a duplication of the parts recited in claim 7. Such a claim for a duplication of previously recited structures is not a patentable feature.

Claims 12 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blackburn in view of Garman.

Regarding claim 12, Blackburn discloses a clip (see fig 2).

Blackburn does not disclose a plurality of pairs of clips.

Garman discloses a plurality of pairs of clips 34, 24.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply the teaching of Garman to the invention of Blackburn in order to make it possible to store and carry more than one lure at a time.

Regarding claim 13, Blackburn discloses an end wall 32 perpendicular to the wall and a vertical rail (see fig 4a) outside of the end wall.

It is recommended that the applicant rewrite the independent claims, focusing on the structure of the post unit and the support means of the posts in figures 3 and 5.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bethany L. Griles whose telephone number is 703.305.1839. The examiner can normally be reached on Monday through Friday 8:00 am - 4:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Poon can be reached on 703.308.2574. The fax phone numbers for the organization where this application or proceeding is assigned are 703.306.4196 for regular communications and 703.305.3597 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.306.5771.

Bethany L. Griles  
Examiner  
Art Unit 3643

blg  
March 6, 2003



KURT ROWAN  
PRIMARY EXAMINER  
GROUP 3200